

1 of, known as a place where a lot of people go to
2 retire. Does your population show a significantly
3 more older people?

4 MICHAEL ERTEL: Well, each area is
5 different. Seminole County --

6 REPRESENTATIVE BROWN: Statewide?

7 MICHAEL ERTEL: Statewide, we're older
8 than most states, yeah.

9 REPRESENTATIVE BROWN: So if your
10 requirements for voting were going to affect your
11 population, you would be able to see it pretty
12 quickly, wouldn't you? Just because you have a lot of
13 older people?

14 MICHAEL ERTEL: Yeah. Yes. We'd be able
15 to see if a process that we were doing was creating a
16 burden on our voters because they call us, as you well
17 know, as an elected official, they call us and they
18 tell us.

19 REPRESENTATIVE BROWN: I'm sure.

20 Do you allow those in nursing homes to
21 vote from their nursing homes and not go through this
22 process?

23 MICHAEL ERTEL: We do. We have a process
24 where we go into the nursing homes ahead of time and
25 we give them the opportunity to do -- it's really more



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1 of an absentee-ballot process that we then supervise
2 on-site at the nursing homes.

3 REPRESENTATIVE BROWN: And do they have to
4 also present photo ID?

5 JUSTIN LEAVITT: It's an
6 absentee-balloting process.

7 REPRESENTATIVE BROWN: Very good.

8 When did you go to this system? What
9 year?

10 MICHAEL ERTEL: The provisional ballot --
11 this has been in place since I got here, and I got
12 here in February of 2005. It was put in place, as you
13 heard earlier, as part of the HAVA Requirements. So
14 it's a system that since we've had it, has worked
15 tremendously.

16 REPRESENTATIVE BROWN: But HAVA didn't
17 prescribe all, exactly how this was to be, did they?
18 I mean, you did have to pay --

19 MICHAEL ERTEL: Yeah, each state is a
20 little different. Each county is a little different.

21 REPRESENTATIVE BROWN: So this is not
22 statewide? This is your county?

23 MICHAEL ERTEL: No. This is statewide.

24 REPRESENTATIVE BROWN: Okay.

25 MICHAEL ERTEL: The forms are statewide.



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1 The voters have a certain number of days to come in
2 and if they want to, provide us additional evidence.
3 But they don't have to.

4 And so it's a much more, on the voters
5 sense, it's a much more passive activity. If they
6 truly are that person and they know that their
7 signature probably hasn't changed a whole lot, all
8 they're simply doing is taking a little longer are to
9 vote because they have to fill out the thing to make
10 sure that we can verify that they are eligible to cast
11 that ballot in that precinct.

12 REPRESENTATIVE BROWN: Do you have any
13 figures about the cost to implement that system?

14 MICHAEL ERTEL: I know this is in your
15 body that approves the budget -- it's not that much.
16 But no matter what it is, the security of the
17 election, it's worth it, it's worth the extra time to
18 train the poll workers. It's worth the extra little
19 bit of money.

20 It's really just printing. It's printing
21 these envelopes. Our Canvassing Board, it takes us --
22 it's one of the longest things we do is going through,
23 the things that takes the longest amount of time.

24 But if we're going to wine whine about
25 taking longer time, we shouldn't be in the election.



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1 REPRESENTATIVE BROWN: And how many days
2 do you have?

3 JUSTIN LEAVITT: To verify those?

4 MICHAEL ERTEL: Well, the voter has until
5 two days after the election to come in and give us
6 additional information. Again, because they don't
7 have to, to do that.

8 We have very, very, very few voters that
9 actually do come back and present us with the
10 additional information.

11 REPRESENTATIVE BROWN: But you're an
12 elected official. How long do they have to get those
13 all? To go through them and verify?

14 MICHAEL ERTEL: We do it within two days.

15 REPRESENTATIVE BROWN: Two days?

16 MICHAEL ERTEL: Yeah.

17 REPRESENTATIVE BROWN: I'm impressed.

18 MICHAEL ERTEL: Well, like you're having
19 tonight. It just takes late nights but it's one of
20 those, kind of, important things.

21 REPRESENTATIVE BROWN: Thank you.

22 JUSTIN LEAVITT: Thank you.

23 CHAIRMAN TODD SMITH: Any other questions?

24 Yes. Representative Heflin.

25 REPRESENTATIVE HEFLIN: On your Voter



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1 Registration process, like for your at your senior
2 citizens centers -- do you all go out there and
3 actually go on-site to help those senior citizens?

4 MICHAEL ERTEL: We do. Well, we go
5 everywhere. I mean, I tell our voter outreach staff,
6 if it's more than 50 people there, we'd better be
7 there.

8 REPRESENTATIVE HEFLIN: Good.

9 MICHAEL ERTEL: At an event or at
10 anything.

11 REPRESENTATIVE HEFLIN: You wanna move to
12 Texas?

13 MICHAEL ERTEL: What's that?

14 REPRESENTATIVE HEFLIN: You wanna move to
15 Texas?

16 MICHAEL ERTEL: I love Florida.
17 So, you know, we just try go out and go
18 everywhere. To schools. To events. To everything.

19 REPRESENTATIVE HEFLIN: Okay. Now, you've
20 read the bill that's before the committee today?

21 MICHAEL ERTEL: Yeah.

22 REPRESENTATIVE HEFLIN: Is there anything
23 in this bill at all that addresses the provisional
24 ballot issue?

25 MICHAEL ERTEL: You've discussed



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1 provisional ballots. Hold on. Let me find out the
2 exact point on it where it talks about it.

3 It talks about it in line -- in --
4 everyone's got different kind of copies, but in my
5 page it's Section 66 --

6 REPRESENTATIVE HEFLIN: What page?

7 MICHAEL ERTEL: Well, on my page -- it's 3
8 and it goes down to Line 26, that the requirements for
9 identification at subsection are not met the voter may
10 be accepted for provisional ballot voting under
11 Section 63 dot 01, shall inform the voter who has not
12 accepted to voting under this section of the voter's
13 right to cast a provisional ballot.

14 REPRESENTATIVE HEFLIN: Now having read
15 that, I like your position, so you think it would be
16 good to change this bill to the way you're doing it?

17 MICHAEL ERTEL: I think that's your
18 decision to make. I think there's laws and there's
19 rules which implement the laws.

20 REPRESENTATIVE HEFLIN: Yeah.

21 MICHAEL ERTEL: And you can put every
22 element of a rule into a law if you'd like or you can
23 let that come under the rules process.

24 REPRESENTATIVE HEFLIN: Thank you very
25 much for your testimony.



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1 MICHAEL ERTEL: Thank you.

2 CHAIRMAN TODD SMITH: Okay. Members, any
3 other questions for this witness? Anybody?

4 MICHAEL ERTEL: I've given everyone a copy
5 of one of these so you all can have them.

6 CHAIRMAN TODD SMITH: Okay. Good. Thank
7 you very much.

8 MICHAEL ERTEL: Including a sample ballot.

9 CHAIRMAN TODD SMITH: Do you have any
10 other material that you have that, sort of, generally
11 describes in summary manner how you handle the Florida
12 provisional ballots? I would be interested in --

13 MICHAEL ERTEL: I have a copy of it and I
14 didn't make 15 copies of it. But I do have a copy of
15 the relevant law and I can pass it out. Okay. The
16 copy of the law describing the process that we go
17 through, as well as the canvassing of it.

18 CHAIRMAN TODD SMITH: All right. Thank
19 you.

20 MICHAEL ERTEL: Great.

21 CHAIRMAN TODD SMITH: Representative
22 Anchia.

23 REPRESENTATIVE ANCHIA: Yes, just very
24 quickly before you go.

25 MICHAEL ERTEL: You're like Columbo. Just



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1 one more thing.

2 REPRESENTATIVE ANCHIA: Just one more
3 thing. I hadn't had a chance to ask you a question
4 yet.

5 MICHAEL ERTEL: All right.

6 REPRESENTATIVE ANCHIA: I've been engaged
7 on procedure.

8 MICHAEL ERTEL: I was actually hoping I
9 would be able to get away without you asking one of
10 your questions.

11 REPRESENTATIVE ANCHIA: No. Honestly.

12 MICHAEL ERTEL: I'm waiting for it,
13 though.

14 REPRESENTATIVE ANCHIA: In terms of -- and
15 this, I think, was asked and you may have answered it.
16 I just want to make sure we get it on the record and I
17 understand it.

18 When you instituted the photo ID standard,
19 what parallel procedures did you put in place to
20 increase access to the franchise?

21 MICHAEL ERTEL: Ask it again.

22 REPRESENTATIVE ANCHIA: Carter-Baker talks
23 about increasing security at the same time increasing
24 ballot access, right?

25 MICHAEL ERTEL: Okay.



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1 REPRESENTATIVE ANCHIA: What did Florida
2 do in those parallel tracts or did you just do it
3 piecemeal by putting in photo ID?

4 MICHAEL ERTEL: We've had photo ID since
5 I've been there: Is I can't really --

6 REPRESENTATIVE ANCHIA: How long is that?

7 MICHAEL ERTEL: February of '05.

8 REPRESENTATIVE ANCHIA: Okay.

9 MICHAEL ERTEL: So I can't really attest
10 to the implementation process they did. But since --
11 and if it were before -- if it were far, far before
12 2000, since 2000 we've had so many changes in the
13 process.

14 REPRESENTATIVE ANCHIA: Right.

15 MICHAEL ERTEL: Because there's so many
16 changes because we were under a microscope.

17 REPRESENTATIVE ANCHIA: HAVA?

18 MICHAEL ERTEL: HAVA. Florida.

19 And so we've had a large turnover in the
20 election official community, as well, since 2000.

21 REPRESENTATIVE ANCHIA: Okay. How much
22 did the move to photo ID cost the state? And I'm
23 going to talk about three buckets of money.

24 The first with one is access to ID. What
25 did you all do and how much did you spend in order to



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1 get people access to the ID?

2 Poll-worker training in the second bucket
3 of money.

4 And then third: Did you have a
5 corresponding change on mail-in ballots? You are a no
6 excuse mail-in ballot state, correct?

7 JUSTIN LEAVITT: Correct.

8 MICHAEL ERTEL: Correct. Correct. In
9 fact, we encourage absentee voting.

10 JUSTIN LEAVITT: Okay.

11 MICHAEL ERTEL: I can't talk about the
12 implementation budget because I was not there during
13 the implementation so I don't want to talk outside
14 that.

15 But within the training, because more than
16 95 percent of our voters use a driver's license,
17 within the training, it actually makes our training
18 expendientially easier.

19 We don't have to train, here's how to look
20 for all these various forms of ID. We train here's
21 where to look on the driver's license for the photo.
22 Here's where to look for the signature. So as our
23 training -- you know, 95 percent of our voters come in
24 with the same form of ID. The form that our poll
25 workers are very familiar with.



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1 And as I mentioned it becomes rogue for
2 our poll workers. They're able to come in. They know
3 exactly where to look. It processes the voters
4 quicker, more likely, pardon me.

5 And so it in training, it's yes to train
6 our poll workers. In practice, our poll workers get
7 it quicker, and in the implementation at the polls,
8 our voters go through the process much quicker
9 because they're not pulling out the same statement and
10 stuff like that.

11 REPRESENTATIVE ANCHIA: There are only
12 five forms that you allow and the changes go through
13 this legislative session that you anticipate it?

14 MICHAEL ERTEL: I think we're going to be
15 down to like five.

16 REPRESENTATIVE ANCHIA: Right.

17 MICHAEL ERTEL: And as a caveat to that,
18 if you have no driver's license or Florida ID or
19 passport or any of that stuff, that's why we have the
20 provisional ballot process so that voters without ID,
21 voters who would.

22 It's burdensome for them to, as Dr. Alan
23 was mentioning, to take the drive down to the Driver's
24 License Bureau or take a walk down to the Driver's
25 License Bureau until you get your license or to get an



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1 ID card of some sort -- even if you don't have an ID,
2 you can vote.

3 You vote provisional and that's how we
4 verify you. And it's a much more deliberate process
5 and allows our voters to -- it allows us to determine
6 the eligibility of the voters and we can take our time
7 on it and do it right.

8 REPRESENTATIVE ANCHIA: Can you speak to
9 the policy decision of expanding absentee voting to
10 no-excuse and whether there was any thought to mail-in
11 ballot fraud during the expansion of absentee.

12 MICHAEL ERTEL: I can't speak for
13 legislature and what caused them to do what they did.
14 I can speak to the implementation of it and how we
15 make sure that the fraud is kept to a minimum.

16 REPRESENTATIVE ANCHIA: And how did you do
17 that?

18 MICHAEL ERTEL: If people know that
19 there's a stick, they're not going to do it.

20 REPRESENTATIVE ANCHIA: What is a stick?
21 It's an enforcement stick?

22 MICHAEL ERTEL: You got it. You got it.
23 So if they know that I'm going to get --
24 you know, there is a consequence, then they're less
25 likely to do it.



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1 And you know, I told one person because we
2 had folks, as we all know within the absentee fraud
3 stuff, you can cast that ballot, but it will be the
4 last one for awhile because we're going to catch you.

5 I'm a former military guy and we catch
6 them and we make sure that they know that it's not
7 something that is acceptable. Expert Anchia, I know
8 Miami had elections that were overturned long ago
9 because of mail-in ballot fraud.

10 What are some of the safeguards that you
11 have in your mail-in ballot system other than the
12 stick that you have over here, saying, hey, penalty,
13 big penalty? Look out, we're going to catch you.

14 Are there systematic safeguards you have
15 in place?

16 MICHAEL ERTEL: There are. Each county
17 has our own security procedures on how we ensure that
18 absentee-ballots aren't going in a fraudulent way.

19 One thing that we do, and I can tell you
20 that we do have a list that I ask of our folks. And
21 every single household that has requested more than
22 four absentee-ballots, I track.

23 So that I can say, Okay, wait a minute.
24 How big is this House? How many absentee-ballots have
25 been requested? If there's 27 absentee-ballots



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1 requested from a one-bedroom apartment, something's
2 been benchmarked. So we check that.

3 And so we look up front to make sure that
4 if we see anything that may occur, then we go ahead
5 and just, sort of, do a little looksey to make sure.
6 It's like watching a drunk guy walk out of the bar.
7 Do you let him turn on the car and enforce it or do
8 you say you probably shouldn't be driving tonight?

9 REPRESENTATIVE ANCHIA: Okay. Thank you.

10 MICHAEL ERTEL: Okay.

11 CHAIRMAN TODD SMITH: Any other questions?
12 I have a few questions unless someone else has
13 questions. Anybody else have questions? Anybody?

14 Do you have access -- I assume if you have
15 identified there were 14 votes in your counsel it I
16 that were not counted because of the photo ID
17 requirements, can you get me information in writing
18 after this hearing if possible to get me those numbers
19 on a statewide basis?

20 And my question is: In your county --

21 MICHAEL ERTEL: Statewide we had 394.

22 CHAIRMAN TODD SMITH: Okay. And I assume
23 -- those -- 394 were the votes that were be counted
24 because of the photo identification requirements.

25 MICHAEL ERTEL: They did not have the



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1 identification and the signatures to match.

2 CHAIRMAN TODD SMITH: And that's how many
3 votes were cast statewide? Do you have that?

4 MICHAEL ERTEL: Oh, my goodness.

5 CHAIRMAN TODD SMITH: Do you have that?

6 JUSTIN LEAVITT: Item, yeah, I do have
7 that number. Hold on one second.

8 I know we had 38 plus, 3.8 million, plus
9 -- roughly 2 million -- so that many.

10 CHAIRMAN TODD SMITH: Say that again.

11 MICHAEL ERTEL: 3,893,184 were cast on
12 election day. 2,661,672 were cast at early voting
13 sites.

14 And 1,947,080 were cast via absentee.

15 CHAIRMAN TODD SMITH: So somewhere around
16 8 million votes and 394.

17 MICHAEL ERTEL: Uh-huh.

18 CHAIRMAN TODD SMITH: And the population
19 of Florida is 10 million and the population of Texas
20 is 23, 24 million.

21 MICHAEL ERTEL: Actually, we have
22 10.4 million registered voters for this past election.
23 So our registration rate is not as high, of course, as
24 our population rate.

25 CHAIRMAN TODD SMITH: And I have an



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1 indication here that in about 2003, and that's when
2 the Mandatory Photo Identification Requirement was put
3 into place; is that correct?

4 MICHAEL ERTEL: Okay.

5 CHAIRMAN TODD SMITH: And it indicates
6 that the Senate, which at the time was 14 Democrats
7 and 25 Republicans voted 38 to 0 on that bill.

8 And that the House of Representatives,
9 which was 39 Democrats and 81 Republicans voted 111,
10 to 2 on that bill to mandate photo identification
11 requirements.

12 Do you recall that?

13 MICHAEL ERTEL: I mean, if you're reading
14 it and you know it's true, then it is, I'm sure.

15 CHAIRMAN TODD SMITH: Okay. All right.

16 Any other questions, members, of this
17 particular witness?

18 REPRESENTATIVE VEASEY: I have one
19 question.

20 CHAIRMAN TODD SMITH: Okay.

21 REPRESENTATIVE VEASEY: Do you have any
22 demographic information on who the voters are?

23 MICHAEL ERTEL: Is the question: Is one
24 person more likely to forget their ID than another
25 person?



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1 REPRESENTATIVE VEASEY: According to
2 your --

3 MICHAEL ERTEL: The form itself that folks
4 fill out, it's a self-identifying form.

5 On the form there is no demographic
6 information asked for the specific purpose that the
7 decision to count the provisional ballot should not be
8 based on the demographics of the voter. It should be
9 based upon the eligibility of the voter to vote in
10 that precinct on that day.

11 REPRESENTATIVE HEFLIN: Mr. Chairman, he
12 said he was going to provide copies of the procedure,
13 the provisional ballots.

14 Can you ask him, since I don't want to use
15 his time on the clock, but can you do the same on
16 mail-in ballots, the procedures you follow for that?

17 MICHAEL ERTEL: Absolutely.

18 REPRESENTATIVE VEASEY: And so, obviously,
19 you said you don't keep any sort of racial
20 demographics on this. Are any ZIP codes or anything
21 or anything, things like --

22 MICHAEL ERTEL: We do have certain ZIP
23 codes at the precinct. The precinct is much smaller
24 than the zip codes have we only have 126 precincts.

25 The precincts in historic areas where



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1 there's older folks because we've got one area that
2 has a couple of senior citizen areas do not vary in
3 the number of provisional ballots.

4 REPRESENTATIVE VEASEY: Do you have more
5 than a couple in Florida?

6 MICHAEL ERTEL: Not in my county. We
7 don't have that many. We're, kind of, inland. It's
8 not that great of county for seniors to retire to when
9 they can go on the beach.

10 But there's no variance between -- there's
11 no big difference between, you know, our precinct that
12 has one specific definite. Demographic versus a
13 precinct that has a another specific demographic.

14 CHAIRMAN TODD SMITH: Any other questions,
15 members?

16 Representative Anchia.

17 REPRESENTATIVE ANCHIA: One last question.

18 CHAIRMAN TODD SMITH: Okay.

19 REPRESENTATIVE ANCHIA: Do we have time?

20 CHAIRMAN TODD SMITH: You do. The clock
21 says 26 minutes then we can have the discussion.

22 MICHAEL ERTEL: Hopefully I don't take
23 13 minutes to answer your question.

24 REPRESENTATIVE ANCHIA: Great. Great.

25 I know that this doesn't have any



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1 identifier based on or you cannot glean demographic
2 information from this, whether or not they are racial.

3 Have you gone back and studied that
4 universe of voters that have had to vote a provisional
5 ballot because they didn't have the requisite ID and
6 done a retrospective study of that group to determine
7 how many are African Americans? How many are
8 Hispanic? How many are seniors? How many are women?

9 MICHAEL ERTEL: We don't see a spike in
10 one group or another.

11 REPRESENTATIVE ANCHIA: But you have
12 started it?

13 MICHAEL ERTEL: Well, we do know that
14 antidotally.

15 What we don't do is after an election try
16 to determine -- we do determine the voter turn-out
17 among certain communities. Overall voter turn-out.

18 We can look back at ones that counted.
19 Just remember the ones that counted are voters who we
20 have a file on.

21 A lot of times the ones that don't count
22 is because they're not a registered voter. And the
23 information they put down here does not have that
24 information on it. So it doesn't have the demographic
25 information on it.



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1 REPRESENTATIVE ANCHIA: But you have done
2 a study of the voters that counted?

3 MICHAEL ERTEL: Yes, it's easy to do of
4 the ones that counted. And again, there's no it's all
5 one group or it's all one group. Everybody forgets
6 their ID occasionally. And it's -- forgetting your ID
7 is not something that has anything to do with you are
8 age or your race or your gender or anything or your
9 political affiliation.

10 REPRESENTATIVE ANCHIA: Okay. Thanks.

11 CHAIRMAN TODD SMITH: Since this law was
12 implemented in 2003, is there a number of people that
13 are not bringing an ID to the polls and therefore
14 casting a provisional ballot shrinking over time?

15 MICHAEL ERTEL: It depends on an election.
16 If you have an election with a lot of passive
17 voters -- and by passive voters, I mean, folks that
18 aren't -- that don't show up to the polls a whole lot,
19 they're less used to the process and so they may not
20 know that they have to have an ID.

21 So like at this last election we had --
22 there were a lot of voters that were voting for the
23 first time or the first time in a while. And so
24 because of that, they may not have known that they had
25 to have their ID with them.



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1 So first the number would be higher for a
2 general election in a presidential year where there's
3 a lot of expert site on both sides of the aisle.

4 CHAIRMAN TODD SMITH: And so that's the
5 election, that election where there were more people
6 showing up because of the higher turn-out that
7 resulted in the 394 voters statewide?

8 MICHAEL ERTEL: Yeah. It would be a
9 higher turn-out numbers-wise. We had more voters turn
10 out during this election than any other election.

11 Percentage wise, it's about the same, of
12 course.

13 CHAIRMAN TODD SMITH: Okay.

14 Any other questions, member?

15 REPRESENTATIVE ALLEN: One more question.

16 CHAIRMAN TODD SMITH: Dr. Allen.

17 REPRESENTATIVE ALLEN: You have ensured
18 the health provisional ballot.

19 MICHAEL ERTEL: The provision envelope?

20 REPRESENTATIVE ALLEN: Yes.

21 MICHAEL ERTEL: We can make some changes,
22 but a lot of it has to do with, you know, what we have
23 to place on there because of what state law mandates.

24 REPRESENTATIVE ALLEN: I was --

25 MICHAEL ERTEL: Do you have suggestions?



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1 REPRESENTATIVE ALLEN: No. I was just
2 looking at, just above the voter's signature there is
3 there is the stick.

4 MICHAEL ERTEL: And that's mandated by
5 Florida law to have the information within this box.
6 It's verbatim.

7 REPRESENTATIVE ALLEN: Okay. But right
8 above the signature, I guess, you have a reason for
9 putting it there.

10 MICHAEL ERTEL: Right. And mostly for a
11 variety of reasons because we want the voter to know
12 that right before they sign it. Now, there's
13 information below that that they have to fill out.

14 But if they don't fill out all that
15 information, that's, you know, it won't disqualify
16 their vote from being counted if they don't fully fill
17 out this envelope.

18 We can glean enough information from what
19 they've provided us to make an intelligent decision
20 that they're eligible to vote that day in that
21 precinct with that ballot style, then we'll go through
22 and do it.

23 The No. One thing they absolutely need,
24 though, is the signature of the voter on here though.
25 And that's why I believe when the legislature wrote



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1 this language, they probably did it right below there.

2 REPRESENTATIVE ALLEN: Okay. Thank you.

3 CHAIRMAN TODD SMITH: Thank you,
4 Mr. Ertel. I appreciate you taking the time to come.

5 MICHAEL ERTEL: Thank you very much
6 Chairman.

7 CHAIRMAN TODD SMITH: And visit with us.

8 JUSTIN LEAVITT: Thank you.

9 CHAIRMAN TODD SMITH: Thank you.

10 At this time, the chair calls D
11 Charleston, a Walker County Justice of the Peace from
12 Waller, who's here to testify against Senate Bill 362.



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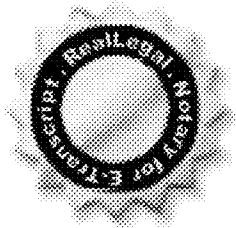
2
3 COUNTY OF HARRIS:

4
5 I, Kateri A. Flot-Davis, Certified
6 Shorthand Reporter in and for the State of Texas,
7 hereby certify that the foregoing transcript is done
8 to the best of my ability and reflects proceedings
9 heard on video recording.

10 I further certify that I am neither
11 counsel for, related to, nor employed by any of the
12 parties or attorneys in the action in which this
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